

DISTRICT OF COLUMBIA
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DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTH,
Petitioner,

v.

OSP CONSULTANTS, INC.
and GEORGE LONG,
Respondents.

Case No.: I-00-10255

DECISION AND FINAL ORDER

I. Introduction

By a Notice of Infraction served on June 29, 2000, the Government charged Respondents OSP Consultants, Inc. and George Long with violating 21 DCMR 502.1, which requires persons who engage in land disturbing activities within the District of Columbia to obtain a permit. The Notice of Infraction asserted that the violations occurred on June 26, 2000 at First Street between L and M Streets, NE, and sought a fine of \$500.00.

Respondents filed a timely plea of Admit with Explanation on July 11, 2000, along with a request for suspension or reduction of the specified fine.

On July 12, 2000, this administrative court issued an order permitting the Government to respond to that plea and request. The Government filed a response on July 24, 2000 opposing any reduction or suspension.

II. Summary of the Evidence

Respondents assert that ninety-five percent of the materials involved in the land disturbing activity were not their property. They further assert that on July 7, 2000, Peter Nwangwu, an Inspector for the Department of Health requested that Respondents clean up the site by July 10, 2000. Respondents stated that they cleaned the site to Inspector Nwangwu's satisfaction.

The Government's responsive submission states that the violation was timely abated and that the Government does not object to a reduction of the specified fine.

III. Findings of Fact

Based on a review of the entire record in this case, this administrative court finds by a preponderance of the evidence:

1. Respondents engaged in or controlled land disturbing activities on or before June 26, 2000 at First Street between L and M Streets, NE without a lawful permit for such activities.
2. By their plea of Admit with Explanation, Respondents have admitted violating 21 DCMR 502.1 on June 26, 2000.
3. Respondents remedied their violation to the satisfaction of the Government by cleaning up the site within the time requested by the Department of Health.
4. Respondents have acknowledged responsibility for their unlawful conduct.

IV. Conclusions of Law

1. Respondents are jointly and severally liable for a violation of 21 DCMR 502.1 on June 26, 2000 under D.C. Code § 6-2701 et seq.
2. A suspension of the scheduled fine is not appropriate in this case; however, a downward adjustment of the fine from \$500 to \$250 is appropriate. This adjustment is based on Respondents' acknowledgement of responsibility for their unlawful conduct and their prompt remediation thereof. See D.C. Code § 6-2703(a)(3) and (a)(6); see generally 18 U.S.C. § 3553; U.S.S.G. § 3E1.1 (containing objective criteria used by the United States in numerically adjusting penalties for offenses involving certain types of conduct).

Therefore, upon Respondents' answer and plea, their application for suspension of the fine, the Government's response, and the entire record in this case, it is hereby, this _____ day of _____, 2000:

ORDERED, that Respondents shall cause to be remitted a single payment totaling **TWO HUNDRED FIFTY DOLLARS (\$250.00)** in accordance with the attached instructions within twenty (20) calendar days of the date of mailing of this Order (fifteen (15) calendar days plus five (5) days for service by mail pursuant to D.C. Code § 6-2715). A failure to comply with the attached payment instructions and to remit a payment within the time specified will authorize the imposition of additional sanctions, including the suspension of Respondents' license or permit pursuant to D.C. Code § 6-2713(f).

/s/ **9/29/00**

Paul Klein
Chief Administrative Law Judge